



General Assembly

Substitute Bill No. 445

February Session, 2004

* SB00445ENV__030804__ *

**AN ACT CONCERNING JURISDICTION OF MUNICIPAL INLAND
WETLANDS COMMISSIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-38 of the general statutes is amended by
2 adding subdivision (19) as follows (*Effective from passage*):

3 (NEW) (19) "Wetland or watercourse resources" means wetlands or
4 watercourses and their related aquatic or wildlife habitats and
5 includes, but is not limited to, the following functions as set forth in
6 section 22a-36: Maintaining an adequate supply of surface and
7 underground water; maintaining hydrological stability and controlling
8 flooding and erosion; recharging and purification of groundwater;
9 maintaining the existence of many forms of animal, aquatic and plant
10 life; maintaining and improving water quality; preventing damage
11 from erosion, turbidity or siltation; providing natural habitats for a
12 diversity of fish, other aquatic organisms, wildlife and vegetation;
13 deterring and inhibiting the danger of flood and pollution; and
14 protecting the state's potable fresh water supplies from the dangers of
15 drought, overdraft, pollution, misuse and mismanagement.

16 Sec. 2. Section 22a-41 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective from passage*):

18 (a) In carrying out the purposes and policies of sections 22a-36 to

19 22a-45a, inclusive, including matters relating to regulating, licensing
20 and enforcing of the provisions thereof, the commissioner shall take
21 into consideration all relevant facts and circumstances, including but
22 not limited to:

23 (1) The environmental impact of the proposed regulated activity on
24 [wetlands or watercourses] wetland or watercourse resources;

25 (2) The applicant's purpose for, and any feasible and prudent
26 alternatives to, the proposed regulated activity which alternatives
27 would cause less or no environmental impact to [wetlands or
28 watercourses] wetland or watercourse resources;

29 (3) The relationship between the short-term and long-term impacts
30 of the proposed regulated activity on [wetlands or watercourses]
31 wetland or watercourse resources and the maintenance and
32 enhancement of long-term productivity of such [wetlands or
33 watercourses] wetland or watercourse resources;

34 (4) Irreversible and irretrievable loss of wetland or watercourse
35 resources which would be caused by the proposed regulated activity,
36 including the extent to which such activity would foreclose a future
37 ability to protect, enhance or restore such resources, and any
38 mitigation measures which may be considered as a condition of
39 issuing a permit for such activity including, but not limited to,
40 measures to (A) prevent or minimize pollution or other environmental
41 damage, (B) maintain or enhance existing environmental quality, or
42 (C) in the following order of priority: Restore, enhance and create
43 productive wetland or watercourse resources;

44 (5) The character and degree of injury to, or interference with,
45 safety, health or the reasonable use of property which is caused or
46 threatened by the proposed regulated activity; and

47 (6) Impacts of the proposed regulated activity on [wetlands or
48 watercourses] wetland or watercourse resources outside the area for
49 which the activity is proposed and future activities associated with, or

50 reasonably related to, the proposed regulated activity which are made
 51 inevitable by the proposed regulated activity and which may have an
 52 impact on [wetlands or watercourses] wetland or watercourse
 53 resources.

54 (b) (1) In the case of an application which received a public hearing
 55 pursuant to (A) subsection (k) of section 22a-39, or (B) a finding by the
 56 inland wetlands agency that the proposed activity may have a
 57 significant impact on [wetlands or watercourses] wetland or
 58 watercourse resources, a permit shall not be issued unless the
 59 commissioner finds on the basis of the record that a feasible and
 60 prudent alternative does not exist. In making his finding the
 61 commissioner shall consider the facts and circumstances set forth in
 62 subsection (a) of this section. The finding and the reasons therefor shall
 63 be stated on the record in writing.

64 (2) In the case of an application which is denied on the basis of a
 65 finding that there may be feasible and prudent alternatives to the
 66 proposed regulated activity which have less adverse impact on
 67 [wetlands or watercourses] wetland or watercourse resources, the
 68 commissioner or the inland wetlands agency, as the case may be, shall
 69 propose on the record in writing the types of alternatives which the
 70 applicant may investigate provided this subdivision shall not be
 71 construed to shift the burden from the applicant to prove that he is
 72 entitled to the permit or to present alternatives to the proposed
 73 regulated activity.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

Statement of Legislative Commissioners:

In subsection (b) of section 2, "wetlands or watercourses" was bracketed and "wetland or watercourse resources" was inserted for consistency with changes made in section 1 of the bill.

ENV *Joint Favorable Subst.*